

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1255 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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KARMANBHAI CHHAGANBHAI BHARWAD

Versus

STATE OF GUJARAT

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Appearance:

MR PM THAKKAR with MR HR PRAJAPATI for Petitioner  
MR SS PATEL AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 30th December, 1998, made by the District Magistrate, Ahmedabad, under the powers conferred upon

him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'dangerous person' within the meaning of section 2 (c) of the Act, and his activities are found to be prejudicial to the maintenance of public order. Four offences punishable under Chapters XVI & XVII of the IPC are registered against the petitioner and are pending trial before the concerned court. In each of the said cases, the petitioner was arrested and has been released on bail. Besides, seven individuals, on an assurance of anonymity, have given statements in respect of the nefarious activities of the petitioner and its adverse effect on the public order.

It is submitted that the petitioner is an illiterate person and can hardly read or write Gujarati language. He does not know English language at all. However, many of the documents supplied to the petitioner along with the grounds of detention are in English. Moreover, the complete text of one of the documents being the bail order made in respect of CR No. 113/98 registered on 30th October, 1998, has not been supplied to the petitioner. Neither of these averments is controverted.

It is the settled law that the order of release on bail made in connection with the offence registered against the detenu is a vital document and ought to be supplied to the detenu and that the grounds of detention and the documents should be furnished to the detenu in the language known to him. In view of the uncontroverted facts stated hereinabove, the Detaining Authority appears to have committed breach of both the aforesaid requirements. The order of detention, therefore, can not be sustained.

Petition is, therefore, allowed. The order dated 30th December, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI\*